

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Washington, D.C. 20240

MAR 31 2015

SENATE FINANCE & CLAIMS

Exhibit No. _____

Date _____

Bill No. _____



3

4-10-15

HB 234

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FISH, WILDLIFE PARKS
DIRECTOR'S OFFICE

Mr. Jeff Hagener, Director
Montana Department of Fish, Wildlife and Parks
P.O. Box 200701
Helena, MT 59620-0701

Dear Mr. Hagener:

I am writing in regard to Montana House Bill 234, which would create a shooting range grant account and require the annual transfer of funds from Montana's general license account to the shooting range account. We understand the legislation was passed by the Montana House of Representatives on March 30, which elevates our concern about effects of the proposal.

We have reviewed House Bill 234 in consultation with the Department of the Interior Office of the Solicitor, and in light of the applicable Federal regulation governing the Wildlife and Sport Fish Restoration grant programs (50 CFR 80). The regulation at 50 CFR 80.10 states:

States acting through their fish and wildlife agencies are eligible for benefits of the Acts only if they pass and maintain legislation that:

- (a) Assents to the provisions of the Acts;
- (b) Ensures the conservation of fish and wildlife; and
- (c) Requires that revenue from hunting and fishing licenses be:
 - (1) Controlled only by the State fish and wildlife agency; and
 - (2) Used only for administration of the State fish and wildlife agency, which includes only the functions required to manage the agency and the fish- and wildlife-related resources for which the agency has authority under State law.

Our analysis of House Bill 234 supports the conclusion stated in a January 29, 2015 letter to you from Mr. Stephen Jose, Acting Chief, Wildlife and Sport Fish Restoration Program, Region 6, U.S. Fish and Wildlife Service, Denver, CO.

If House Bill 234 becomes law, the Department of Fish, Wildlife and Parks would suffer a loss of control of hunting and fishing license revenue. Under 50 CFR 80.11, Montana would become ineligible to receive grants under the Wildlife Restoration Program and the Sport Fish Restoration Program. In fiscal year 2014, these grants to Montana totaled more than \$27 million.

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BUREAU OF LAND MANAGEMENT
DENVER, COLORADO 80260

We note that the construction, operation, and maintenance of shooting ranges is an eligible activity for grant funds under 50 CFR 80.50(b)(2). Our concern is not based on the type of activity promoted by House Bill 234, but rather on the loss of control of license revenue that would result from enactment of the legislation.

If you have questions, please contact me at 202-208-7337, or Mr. Tom Busiahn, Chief, Division of Policy and Programs at 703-358-2231.

Sincerely,

Hannibal Bolton

Assistant Director, Wildlife and Sport Fish
Restoration Programs

cc: Noreen Walsh, Regional Director, Region 6, U.S. Fish and Wildlife Service, Denver, CO
Carol Bambery, Association of Fish and Wildlife Agencies
Larry Mellinger, Office of the Solicitor, U.S. Department of the Interior



IN REPLY REFER TO
FWS/ R6/WSFR

United States Department of the Interior

FISH AND WILDLIFE SERVICE Mountain Prairie Region



MAILING ADDRESS:
Post Office Box 25486
Denver Federal Center
Denver, Colorado 80225-0486

STREET LOCATION:
134 Union Blvd.
Lakewood, Colorado 80228-1807

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**FISH, WILDLIFE & PARKS
DIRECTOR'S OFFICE**

M. Jeff Hagener, Director
Montana Department of Fish, Wildlife & Parks
P.O. Box 200701
Helena, Montana 59620-0701

Dear Mr. Hagener:

This responds to your letter received in our office on January 27, 2015, requesting our views regarding proposed "House Bill 234" (see enclosure). As your letter states, House Bill 234 (HB 234) would require the Montana Department of Fish, Wildlife & Parks (FWP) to "spend a minimum of \$500,000 each year in license revenues on shooting range grants, making these funds unavailable to FWP for any other fish and wildlife management purposes."

Section 1 of proposed HB 234 states:

"Section 1. Shooting range grant account. (1) There is a shooting range grant account in the state special revenue fund established in 17-2-102. Subject to appropriation by the legislature, money deposited in this account must be distributed by the department pursuant to 87-1-277 through 87-1-279..."

Section 2 of proposed HB 234 states:

"Section 2. Section 87-1-279, MCA, is amended to read...(3) The department shall ~~make every effort to~~ expend or obligate funds for shooting range improvement grants within the year for which they are appropriated..."

Section 3 of proposed HB 234 states:

"Section 3. Appropriation. In each year of the biennium beginning July 1, 2015, there is appropriated \$500,000 from the general license account to the department of fish, wildlife, and parks for 12 shooting range grants distributed pursuant to 87-1-277 through 87-1-279."

Wildlife and Sport Fish Restoration (WSFR) Program Federal regulations that apply to the proposed legislation include the following:

50 CFR 80.10 – "States acting through their fish and wildlife agencies are eligible for benefits of the Acts only if they pass and maintain legislation that:

- (c) Requires that revenue from hunting and fishing licenses be:
 - (1) Controlled only by the State fish and wildlife agency; and
 - (2) Used only for administration of the State fish and wildlife agency, which includes only the functions required to manage the agency and the fish- and wildlife-related resources for which the agency has authority under State law."

50 CFR 80.11 – "A State becomes ineligible to receive the benefits of the Acts, if it...

- (c) Diverts hunting and fishing license revenue from:
 - (1) The control of the State fish and wildlife agency; or
 - (2) Purposes other than the agency's administration."

50 CFR 80.21 – "The Director may declare a State to be in diversion if it violates the requirements of § 80.10 by diverting license revenue from the control of its fish and wildlife agency to purposes other than the agency's administration. The State is then ineligible to receive benefits under the relevant Act from the date the Director signs the declaration until the State resolves the diversion..."

If proposed House Bill 234 becomes law, it is our view that the FWP would suffer a loss of control of its hunting and fishing license revenues per the regulations cited above. This would render the FWP ineligible for further participation in the benefits of the WSFR Program until resolution of the diversion issue. As you know, FWP received over \$27 million in WSFR funds in Federal Fiscal Year 2014.

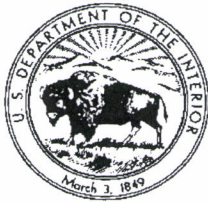
Thank you for the opportunity to comment on the proposed bill. Please keep us informed as to its progress and any changes that may be proposed. Also, please contact me at any time for further assistance with this matter at (303) 236-7394.

Sincerely,



Stephen H. Jose
Acting Chief, Wildlife and
Sport Fish Restoration Program

Enclosure



United States Department of the Interior

FISH AND WILDLIFE SERVICE Mountain-Prairie Region



IN REPLY REFER TO
FWS/ R6/WSFR

MAILING ADDRESS:
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**FISH, WILDLIFE PARKS
DIRECTOR'S OFFICE**

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M. Jeff Hagener, Director
Montana Department of Fish,
Wildlife & Parks
P.O. Box 200701
Helena, Montana 59620-0701

Dear Mr. Hagener:

This responds to your letter received in our office on March 26, 2015, requesting our views regarding amendments to proposed "House Bill 234" (see enclosure) that we previously reviewed. As your letter states, the amended proposal would require the Montana Department of Fish, Wildlife & Parks (FWP) to "spend a minimum of \$350,000 each year in license revenues on shooting range grants, making these funds unavailable to FWP for any other fish and wildlife management purposes except as otherwise directed in the amended language."

We have reviewed the amended language in the proposed bill. Our earlier comments, dated January 29, 2015, remain in effect.

Thank you for the opportunity to comment on the proposed bill and amendments. As we requested in our earlier letter, please keep us informed as to the proposed bill's progress and any changes that may be proposed. Also, please contact me at any time for further assistance with this matter at (303) 236-7394.

Sincerely,

Stephen H. Jose
Acting Chief, Wildlife and
Sport Fish Restoration Program

Enclosure